

Executive Registry

77-10566/5

DD/A Registry

78-0115

9 January 1978

DD/A Registry

File *Legal*

MEMORANDUM FOR: Acting Deputy to the DCI for the
Intelligence Community

FROM: John F. Blake
Acting Deputy Director of
Central Intelligence

SUBJECT: Intelligence Community Charter Legislation

1. The departure of John McMahon from the Intelligence Community Staff and the resultant greater demands on you in your Acting capacity has caused the Director to make a change in the assignment of responsibility concerning the development of coordinated Intelligence Community positions on draft charter legislation. He has asked, under your general supervision, that Dick Kerr take on this responsibility. Dick is free to utilize the services of [] as he sees best.

STATINTL

2. In connection with the services of [], would you and Dick Kerr please let me know if you concur in Tom's draft to me of 27 December or, if not, submit a revision for consideration.

STATINTL

3. The Director has also appointed [] as the senior Agency focal point on matters pertaining to draft charter legislation. Paul, obviously, will continue to look to OGC and OLC for intensive support in this undertaking.

STATINTL

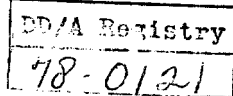
[]
John F. Blake

STATINTL
Att:

Memo dtd 27 Dec 77 to ADDCI
fr [] subj: I.C.
Charter Legislation (ER 77-10566/4)

Distribution:

Orig - Addressee, w/att
1 - D/NFAC 1 - IG
1 - ADDO 1 - Compt
1 - DDS&T 1 - D/EO
1 - ADDA 1 - A/DCI/PA
1 - GC 1 - ADDCI
1 - I.C.



10 January 1977

DD/A Registry
File *Legal*

MEMORANDUM FOR: Acting Deputy Director of Central Intelligence
Deputy Director for Administration ✓
Deputy Director for Science & Technology
Deputy Director for Operations
Director, National Foreign Assessment Center
Office of General Counsel
Office of Legislative Counsel
Office of the Inspector General
Office of the Comptroller

SUBJECT : Draft Charter Legislation

1. The attached redraft of Title 1 prepared by the Senate Select Committee was received this morning and is to be the subject of discussions with Elliot Maxwell on the Hill tomorrow afternoon. In view of the short time available for review, I would appreciate it if each of you would designate a representative to meet with me at 1:00 tomorrow (11 January) in Room 7E-32 to express orally your initial reactions to the draft. We will then proceed at a more deliberate pace to prepare a formal Agency response.

2. I would also like your representative to present any major concerns regarding other titles of the charter legislation, most particularly those pertaining to the CIA (Title IV).



Associate Director-Management
National Foreign Assessment Center

STAT

Attachment

January 9, 1978

Sections 102, 104, 114-120, 123, 124, and 125 are not included as they are in the process of redrafting.

A BILL

To improve the national intelligence system of the United States by the establishment of a statutory basis for the national intelligence activities of the United States, and for other purposes.

That this Act may be cited as the "National Intelligence Reorganization and Reform Act of 1977".

TITLE I--NATIONAL INTELLIGENCE

SHORT TITLE

Sec. 101. This title may be cited as the "National Intelligence Act of 1977".

-3-

STATEMENT OF PURPOSES

Sec. 103. It is the purpose of this Act--

(1) to amend and supplement the provisions of the National Security Act of 1947 governing intelligence activities; ~~to provide statutory authorization and guidance for those national~~ (1) to authorize intelligence activities necessary for the conduct of the foreign relations or the protection of the national security of the United States;

(2) to ensure that ^{such} ~~all~~ intelligence activities are properly and effectively directed, regulated, coordinated, and administered;

(3) to provide for the appointment of a Director of National Intelligence, ~~to assign and delineate the responsibilities of such director, and to confer on such director the authority necessary to fulfill those responsibilities, and to make such director,~~ ^{to} and the entities of the Intelligence Community, ^{and} accountable to the President, the Congress, and the people of the United States;

(4) to ensure that the executive, ^{and judicial} legislative branches of the Government are provided, at the lowest possible cost, with such accurate, relevant, and timely information and analysis as may be necessary to enable ^{those} ~~both~~ branches to make sound and informed decisions regarding the security and vital interests of the United States and to protect the United States against foreign intelligence activities, terrorism, and other forms of hostile action directed against the United States; ~~and~~

(5) to ^{make the DNI} ~~establish effective oversight~~ so that the intelligence activities of the United States ^{may be} ~~are~~ conducted in accordance with the Constitution and laws of the United States and ^{may} ~~do~~ not infringe upon or violate those individual rights protected by the Constitution and laws of the United States.

-10-

NATIONAL INTELLIGENCE ACTIVITIES; AUTHORIZATION

Sec. 105. ~~A~~ Subject to the provisions of this Act, the entities of the Intelligence Community are authorized to engage, in national intelligence activities ^{*} under the direction and control of the National Security Council, ~~the National~~ intelligence activities ^{**} may be undertaken ^{only} by ~~any~~ ^{the} entities of the Intelligence Community ~~except pursuant to the provisions of this Act.~~ ^{and only in accordance with}

~~(b) It shall be the function of the entities of the Intelligence Community, subject to the provisions of this Act, to (A) collect, process, analyze, and disseminate to the executive and legislative branches of the government, accurate, relevant, and timely intelligence information and analysis, (B) engage in special activities, (C) engage in counterintelligence activities, and (D) engage in counter terrorism activities.~~

* special activities in support of national foreign policy objectives (hereinafter in this title referred to as "special activities"), counterintelligence activities, and counterterrorism activities.

** , special activities, counterintelligence activities, and counterterrorism activities

-11-

DIRECTOR AND DEPUTY DIRECTOR

107
Sec. 106. (a) There shall be a Director of National Intelligence (hereinafter in this title referred to as the "Director"). There shall ~~also~~ be a Deputy Director of National Intelligence (hereinafter in this title referred to as the "Deputy Director") to assist the Director in carrying out ~~the~~ the Director's functions under this Act.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate. ~~The Director and the Deputy Director shall~~ and each shall serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than six years unless such person is reappointed ~~by the~~ to that same office by the President, by and with the advice and consent of the Senate. No person who has served as Director or Deputy Director for a period of less than six years and is subsequently appointed or reappointed to that same office may serve in that office under such appointment or reappointment for a term of more than six years. In no event may any person serve in either or both ~~positions~~ offices for more than a total of twelve years. ~~At no time shall the two positions of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces whether in an active or retired status. However, both positions may be occupied simultaneously by citizens of the United States who are not commissioned officers of the armed forces whether in active or retired status.~~ (c) At no time shall the two ~~positions~~ offices of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed forces whether in an active or retired status. However, both positions may be occupied simultaneously by citizens of the United States who are not commissioned officers of the armed forces whether in active or retired status.

(d) (1) If a commissioned officer of the armed forces is appointed as Director or Deputy Director, then--

(A) in the performance of ~~his~~ the duties ~~as of~~ as the case may be, the officer Director or Deputy Director, ~~he~~ shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be applicable if ~~that~~ officer were a civilian in no way connected with the Department of Defense, the military departments, or the armed forces of the United States or any component thereof; and

-12-

(B) ^{that} ~~even~~ officer shall not possess or exercise any supervision, control, powers, or functions ^{those} ~~(other than such as he possesses, or is authorized to that officer directed to exercise~~ as Director, or Deputy Director) with respect to the Department of Defense, the military departments, or the armed forces of the United States or any component thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in ~~paragraph (1) of this~~ section, the appointment to the office of Director or Deputy Director of a commissioned officer of the armed forces, and ^{by that officer} ~~his~~ acceptance of and service in such an office, shall in no way affect any status, office, rank, or grade ^{that officer} ~~he~~ may occupy or hold in the armed forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. ~~any such~~ A commissioned officer shall, while serving in the office of Director or Deputy Director, continue to hold rank and grade ^{that officer was} ~~not lower than that in which serving at the time of his~~ ^{that officer's} appointment ~~as Director or Deputy Director.~~

(3) The grade of any such commissioned officer shall, during any period such officer occupies the office of Director or Deputy Director, be in addition to the numbers and percentages authorized and appropriated for the military department of which such officer is a member.

(e) The Director shall be entitled to ~~the~~ compensation ^{at the rate provided for level I of the Executive Schedule} ~~prescribed by section 5312 of title 5, United States Code, for positions at level I of the Executive Schedule, and~~ The Deputy Director shall be entitled to ~~the~~ compensation ^{at the rate provided for level II of the Executive Schedule by} ~~prescribed by section 5313 of title 5, United States Code, for positions at level II of the Executive Schedule.~~ The Director and Deputy Director whether civilian or military, shall be compensated ^{while serving as Director or Deputy Director} ~~only~~ from funds appropriated to the Director.

(f)

→ (g) The Deputy Director shall act in the place of the Director during the absence or disability of the Director or

(f) If a commissioned officer of the armed forces is serving as Director that officer shall be entitled, while so serving, to the difference, if any, between the regular military compensation (as defined in section 101(25) of title 37, U.S.C.) to which that officer is entitled and the compensation provided for level I of the Executive Schedule by section 5312 of title 5, USC.

-13-

during any temporary vacancy in the office of the Director. The Director shall provide by regulation ^{which Asst. DNI} ~~what officer or employee of the Intelligence Community~~ shall act in the place of the Director during the absence or disability of the Director or during any temporary vacancy in the office of the Director whenever there is no Deputy Director, ^{and which Asst. DNI shall act in the place of the Dep. Dir. during the absence or disability of the Dep. Dir.}

(a) In the event that no person has been appointed Director or Deputy Director under subsection (b) of this section as of the effective date of this title, any person holding the office of Director of Central Intelligence on the date of enactment of this Act may be designated by the President to serve as Director without the advice and consent of the Senate until the office of Director is filled as provided in subsection (b), and any person holding the office of Deputy Director of Central Intelligence on the date of enactment of this Act may be designated by the President to serve as Deputy Director without the advice and consent of the Senate until the office of Deputy Director is filled as provided in subsection (b); but no person designated to serve as Director or Deputy Director under authority of this subsection may serve in such office under such authority for more than 90 days following the effective date of this title. While so serving such persons shall receive compensation at the rates provided by law for the respective offices in which they serve.

AUTHORITY AND DUTIES OF THE DIRECTOR

108 ~~Sec. 107~~ (a) The Director, ^{shall serve} under the direction and control of the National Security Council, ^{as the principal foreign intelligence officer} ~~shall be responsible for the national intelligence activities~~ of the United States.

~~The President shall determine annually, with the advice and assistance of the National Security Council, which intelligence activities, if any, in addition to those specifically defined as national intelligence activities under this title, shall constitute national intelligence activities for which the Director shall be responsible and over which the Director shall have authority. The President shall report annually to the appropriate committees of the Congress on this determination.~~

(b) The Director shall, on an annual basis, make recommendations to the President, the National Security Council, and the appropriate committees of the Congress regarding the relationships among the national intelligence activities and other intelligence and intelligence-related activities and whether any intelligence or intelligence-related activity not a national intelligence activity should be determined by the President, pursuant to subsection (a) of this section, to be a national intelligence activity.

(b) →

(c) The Director shall, on a continuing basis, review all ongoing and proposed national intelligence activities of the United States in order to ^{ensure} ~~assure~~ that ~~those~~ ^{those} national intelligence activities ~~of the United States~~ are properly, efficiently, and effectively directed, regulated, coordinated and administered; that ^{those} ~~such~~ activities provide, at the lowest possible cost, the executive, ^{and judicial} ~~and legislative~~ branches of the Government with the information and analysis that such branches need to fulfill their responsibilities under the Constitution and laws of the United States; that ^{those} ~~such~~ activities do not abridge any right guaranteed or protected by the Constitution or laws of the United States; that ^{those} ~~such~~ activities do not adversely affect the national security, national defense or foreign relations of the United States; and that ^{those} ~~such~~ activities are conducted in conformity with

(b) The Director shall be responsible for--

- (1) the coordination of the national intelligence activities of the U.S.;
- (2) the coordination of U.S. counterintelligence activities abroad; and
- (3) coordination, in consultation with the Secretary of State, of U.S. counterterrorism activities abroad.

the provisions of this Act and the Constitution and laws of the United States. To achieve these ends the Director shall ~~direct~~ *provide such direction to the head of each entity of the I.C.* ~~such changes in national intelligence activities, as the Director deems appropriate, and shall make such recommendations to the President, the National Security Council, the heads of departments and agencies, and the appropriate committees of the Congress as he deems appropriate.~~

~~(d) The Director shall, as provided in section 111 of this title, have full and exclusive approval authority over the national intelligence budget submitted to the President through the Office of Management and Budget.~~

(e) The Director shall ~~also~~ *be responsible for the collection of national intelligence by the entities of the I.C. and shall--*

~~(1) serve as the principal foreign intelligence officer of the United States and provide the President, other officials of the executive branch of the Government, and the Congress, with accurate, relevant, and timely information and analysis;~~

(d) act as the Director of the Central Intelligence Agency, and of such staff as may be required to discharge the Director's responsibilities under this Act;

~~(2) coordinate the national intelligence activities of the United States and provide such direction to the head of each entity of the Intelligence Community as may be necessary to ensure that the national intelligence activities of such entity are (A) providing the information and analysis necessary for the formulation and conduct of the national security and foreign policy of the United States, (B) effectively and efficiently managed, and (C) conducted in conformity with the Constitution and laws of the United States;~~

~~(1) develop such plans, objectives, priorities and requirements for the entities of the Intelligence Community as are necessary to meet the intelligence needs and priorities established by the National Security Council; taking into account the need for the intelligence components of departments and agencies which engage in national~~

-16-

~~intelligence activities to also perform departmental and tactical intelligence activities assigned by the heads of such departments and agencies;~~

(2) establish procedures, in coordination with the heads of departments and agencies not within the Intelligence Community, to increase, insofar as is possible, the national intelligence contribution made by such departments and agencies without contravening their ^{otherwise} ~~authorized functions;~~

→ (3) coordinate ^{assigned missions and authorities,} ~~all clandestine collection, outside the US, of intelligence utilizing human sources.~~

~~(e) establish procedures to increase, insofar as is possible consistent with security requirements and the fulfillment of national intelligence needs as established by the National Security Council, the collection, processing, analysis and dissemination to departments and agencies (including departments and agencies not represented in the Intelligence Community) of tactical and departmental intelligence by the entities of the Intelligence Community.~~

~~(f) The Director shall be have full responsibility for the production of analyses of national foreign intelligence, including national intelligence estimates and similar Intelligence Community-coordinated analyses, and have full responsibility for ensuring that, in the production of such intelligence, diverse points of view are presented and carefully considered, and that differences of judgment within the Intelligence Community are fully expressed for policymakers;~~

(2) (3) obtain such analytic assistance from ~~departmental and agency~~ ^{the} intelligence production organizations ^{of the entities of the I.C.} as is necessary ^{for the Director} to fulfill the Director's responsibilities under ~~clause (7) of this subsection;~~

~~(4) ensure access of departmental and agency intelligence production organizations, under appropriate security procedures, to national intelligence information which is collected by other entities of the Intelligence Community and which is relevant to the lawful foreign intelligence, counterintelligence, and counterterrorism activities of such intelligence production organizations;~~

* (1) provide, under appropriate security procedures, the executive, legislative, and judicial branches of the Government with accurate, relevant, and timely national intelligence information and analysis needed by such branches to fulfill their responsibilities under the Constitution and laws of the U.S.;

-17-

(g) ^{The Director shall be} ~~(10) have full responsibility~~ for the dissemination, under appropriate security procedures, of national intelligence ^{and shall -- (11)} ~~furnish~~ to the departments and agencies and to appropriate operational commanders of the armed forces of the United States ~~authorized by the President to request and receive intelligence procured by the entities of the Intelligence Community all the national, tactical, and departmental intelligence which is produced by the entities of the Intelligence Community relevant to the duties and responsibilities of such departments and agencies and operational commanders of the armed forces,~~ ^{respectively}

* → (2); (3) ~~(11) evaluate on a continuing basis the need for national intelligence of the various components of the executive and legislative branches of the Government,~~

(h) ^{The Director shall be responsible for} ~~(12) evaluating on a continuing basis the quality of the national intelligence that is produced and disseminated by entities of the Intelligence Community and report on an annual basis to the committee of the Congress having jurisdiction over matters relating to national intelligence activities on the results of such evaluation and on the Director's efforts to improve the quality of such national intelligence.~~ ^{Per. SCI of the H. of R. + the SCI of the Senate}

~~(13) review all research and development activities in support of, or otherwise related to, the intelligence or intelligence-related activities of the Government;~~

~~(14) prepare, in consultation with the heads of entities of the Intelligence Community, plans to enhance the Intelligence Community's ability to respond to future needs for national intelligence;~~

^{(1) The Director shall} ~~(15) ensure the appropriate implementation of special activities, exceptionally sensitive clandestine collection projects and sensitive clandestine collection projects;~~

~~(16) coordinate all clandestine collection of foreign intelligence utilizing human sources;~~

~~(17) under the guidance of the Counterintelligence Committee established pursuant to section 121 of this title;~~

* (2) establish procedures which will increase the usefulness for departments + agencies (including departments + agencies not within the I.C.) of information collected, processed, + analyzed through national intelligence activities; and
(3) ensure access to each entity of the I.C., under appropriate security procedures, to national intelligence collected or produced by all other entities of the I.C. which is relevant to the lawful national intelligence, counterintelligence, + counterterrorism activities of such entity.

-18-

~~coordinate the counterintelligence activities of the United States abroad and coordinate with the Attorney General the counterintelligence activities of the United States within the United States;~~

~~(18) provide guidance to those entities of the Intelligence Community which collect, process, analyze and disseminate information on international narcotics traffic;~~

→ (j)(1) The Director shall --

(A) ~~formulate, as appropriate, policies with respect to intelligence arrangements with foreign governments; and be responsible for all relationships between the various entities of the Intelligence Community and the foreign intelligence or internal security services of foreign governments; including all agreements, arrangements, and understandings governing such relationships;~~

(B) [^] ~~coordinate intelligence~~

(C) ~~transmit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate the text of any proposed agreement, arrangement or understanding described in clause (19) at least 30 days before such proposed agreement, arrangement, or understanding is entered into by any officer or employee of the United States or on behalf of the United States, and, accordingly, such agreement,~~

(2) →

~~arrangement, or understanding, shall be exempted from the provisions of section 112b of title 1, United States Code;~~

¹ ~~The Director shall~~

(K) ¹ ~~assign to a single entity of the Intelligence Community responsibility for any service which is of common concern to more than one such entity but which can be more effectively performed by a single entity;~~

(1) ¹ ~~The Director shall, in order to protect intelligence sources + methods from unauthorized disclosure, establish common security standards for the management and handling of information and material relating to intelligence activities, for the granting of access to such information and material, and for entering into such security agreements as are necessary for the protection of such information and material; but the head of each entity of the Intelligence Community shall be responsible for the implementation, subject to the provisions of this Act and~~

* (2) Any proposed international agreement described in paragraph (1)(C) of this subsection which is transmitted to the PSCI of the H. of R. + the SCI of the Senate in accordance with the provisions of such paragraph

-19-

~~guidance from the Director, of such standards and for the protection from unauthorized disclosure of properly classified information and material in the custody of such entity;~~

~~(23) while providing necessary classification of information and material relating to intelligence activities, protect against overclassification of such information and material,~~ *The Director shall, however, ensure*
as appropriate, ~~insuring the downgrading and declassification of such information and material, as appropriate and consistent with applicable laws and executive orders;~~

~~(24) under the guidance of the Communications Security Committee established pursuant to section 122 of this title, review the communications security activities of the United States and make such recommendations to that committee as the Director deems appropriate taking into consideration the Director's responsibilities under this Act;~~

~~(25) establish, in consultation with the Attorney General, and consistent with the provisions of this Act, procedures for the retention, disclosure, and dissemination of information acquired by the various entities of the Intelligence Community and for the protection of such information from unauthorized disclosure;~~

~~(26) establish uniform criteria for the identification, selection and designation of relative priorities for the transmission of critical national intelligence information, and provide the Secretary of Defense with continuing guidance as to the communications requirements of the Intelligence Community for the transmission of such intelligence;~~

~~(27) formulate, in consultation with the Secretary of Defense, plans providing for use by the Secretary of Defense of such elements of the Intelligence Community as may be required in time of war or other national crisis, such plans to include provision for such support, in time of war or~~

~~other national crisis, from the Secretary of Defense as may be required to assure the continuity of essential national intelligence activities;~~

~~(28) provide, in coordination with the Secretary of Defense, for the regular exercises of plans formulated pursuant to clause (27);~~

~~(m) ^{Notwithstanding any other provision of law, the Director may} terminate the employment of any officer or employee of the Central Intelligence Agency or of the office of the Director whenever the Director considers such~~

~~termination necessary or advisable in the interests of the national security of the United States; notwithstanding any other provision of law,~~

~~however, the Director shall, ^{report to the PSCI of the H. & R. + the SCL of the Senate,} notify the appropriate~~

~~committees of the Congress, in a timely manner, of any~~

~~exercise of the Director's authority under this ^{paragraph.} clause.~~

~~The ^{of the employment of any officer or employee under authority of} such termination shall not affect the right of such officer or employee to seek or accept employment ^{this paragraph} elsewhere in~~

~~department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission;~~

~~(29) review the reports of the Inspectors General of the various entities of the Intelligence Community, and direct such Inspectors General to undertake such investigations as the Director deems necessary and appropriate subject to the provisions of this Act; and~~

~~(31) provide such administrative, technical, and support activities in the United States and abroad as may be necessary to carry out effectively and efficiently the duties of the Director.~~

(n) →

(n) In order to carry out the Director's duties under this title, the Director is authorized to obtain from any department or agency such information as the Director deems necessary to perform such duties; and each department and agency shall furnish such information to the Director upon request. The Director shall take appropriate steps to maintain the confidentiality of such information.

(n) In order to carry out the Director's duties under this title the Director is authorized to conduct program + performance audits + evaluations of the activities of the entities of the I. C.

-21-

(p) ~~rel~~ In order to carry out the Director's duties under this title, the Director shall review all research + development activities ~~is authorized to review all the intelligence and intelligence-related activities of the Government and to make such recommendations as the Director deems appropriate to officials of the executive and legislative branches regarding any intelligence activity which has a direct relationship to the national intelligence activities of the United States.~~

(q) ~~rel~~ Nothing in this section shall be construed to prohibit any entity of the Intelligence Community from producing and disseminating its own analyses of national intelligence information collected by any entity of the Intelligence Community, if otherwise authorized to do so but any such analyses shall be promptly provided to the Director.

to the President, the NSC, + the appropriate committees of the Congress

which support of the intelligence or intelligence-related activities of the Government and the reports of the Inspectors General of the various entities of the IC, and may review all the intelligence + intelligence-related activities of the Government. Based upon such reviews, the Director shall

-22-

DEPARTMENTAL RESPONSIBILITY FOR
REPORTING NATIONAL INTELLIGENCE

109
Sec. ~~100~~. It shall be the responsibility of the heads of departments and agencies and all operational commanders of the armed forces of the United States to ensure that all national intelligence obtained by such departments and agencies and operational commands of the armed forces of the United States is promptly furnished to the Director or to the entity of the Intelligence Community designated by the Director to receive such intelligence. Nothing in this title shall be construed to prohibit any department or agency from collecting, processing, evaluating, ^{or} ~~and~~ disseminating departmental or tactical intelligence if such department or agency is otherwise authorized to do so.

-23-

ASSISTANT DIRECTORS; STAFF; COMMITTEES AND BOARDS

110
Sec. ~~102~~ (a) The President is authorized to appoint, by and with the advice and consent of the Senate, not more than five Assistant Directors of National Intelligence. *

(b) The Director is authorized to employ such personnel as may be necessary to assist in carrying out ^{the Director's} responsibilities ~~under this Act~~ ^{as Director}. Such staff may include, but shall not be limited to, persons employed by any entity of the Intelligence Community.

(c) The Director is also authorized to establish such committees or boards, composed of officers and employees of the United States, as may be necessary to carry out effectively the provisions of this title.

(d) The Director is also authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this title. The provisions of ^{5 U.S.C. App. I, 1-15} the Federal Advisory Committee Act (86 Stat. 770) shall apply with respect to any advisory committee established by the

Director under authority of this section except that the Director may waive the application of any or all of the provisions of ^{that} ~~such~~ Act when the Director deems such action necessary to the successful performance of the duties of any entity of the Intelligence Community or to protect the security of the

activities of any such entity. Any waiver exercised by the Director under this section shall be reported to the ^{House Permanent SCI and the} ~~Senate SCI~~ ~~of the Congress having jurisdiction over matters relating to~~ ~~national intelligence activities~~ and the names of all persons

appointed to serve on any advisory committee established under ~~the House Permanent SCI and the~~ authority of this Act shall be reported to ~~such committees of the~~ ~~Senate SCI~~ ~~Congress~~ such committees.

* Each Assistant DNI shall be entitled to the same compensation prescribed by section 5315 of title 5, U.S.C., for positions at level IV of the Executive Schedule. At no time shall more than two of the positions of Assistant DNI be occupied by commissioned Officers of the armed forces, whether in active or retired status.

-24-

AUTHORITY OF THE PRESIDENT TO TRANSFER CERTAIN
DUTIES AND AUTHORITY OF THE DIRECTOR OF
NATIONAL INTELLIGENCE

III
Sec. ~~110~~ (a) The President is authorized to transfer any
or all of the duties and authority of the Director which pertain
to ^{the} ~~such~~ Director's duties and authority ^{as} as head of the Central
Intelligence Agency to any person serving as the Deputy Director
or to any person serving as ^{an} ~~a~~ Assistant Director of National
Intelligence if such person was appointed to the position of
Deputy Director or to the position of Assistant Director of
National Intelligence by and with the advice and consent of the
Senate and if--

(1) the President notifies the Congress in writing of
^{proposed} ~~the President's intent to transfer any such duties and~~
~~authority~~ and specifically describes the duties and
authority ^{to be transferred} ~~to be transferred~~ and ^{identifies} ~~the officer or employee to~~
whom such duties and authority ^{are} ~~are~~ to be transferred;

(2) sixty days of continuous session of the Congress
have expired following the day on which ^{such} ~~a~~ notification was
received by the Congress ~~with respect to the proposed~~
~~transfer of duties and authority under this section;~~ and

(3) neither House of Congress has adopted, within
such 60-day period, a resolution disapproving such transfer
of authority.

(b) For the purposes of this section, the continuity of a
session of Congress is broken only by an adjournment of the
Congress sine die, and the days on which either House is not in
session because of an adjournment of more than three days to a
day certain are excluded in the computation of such 60-day
period.

-25-

NATIONAL INTELLIGENCE PROGRAM AND BUDGET AUTHORITY;
PROGRAM AUDIT AND EVALUATION; INFORMATION

Sec. 112. (a) The Director shall have ~~full and exclusive responsibility~~ ^{for preparation of the} ~~approval authority over the annual~~ national intelligence budget, ^{for its presentation} ~~submitted to the President through the Office of Management and Budget, and, after approval by the President, for its presentation to the Congress.~~ In carrying out the Director's responsibility under this section, the Director shall--

- (1) provide guidance and assistance to the heads of the various entities of the Intelligence Community in the preparation of the programs and budgets of such entities which relate to national intelligence;
 - (2) ^{after} review and ⁱⁿ evaluate the annual program and budget proposals submitted to him ^{by the Director pursuant to subsection (b) of this section, and after} ~~by the heads of the various entities of the Intelligence Community with respect to the~~ ^{taking into consideration} ~~national intelligence activities of such entities.~~ ^{such program + budget proposals,}
 - (3) ~~develop and consolidate annually, with the advice of the heads of the various entities of the Intelligence Community, a budget for the national intelligence program and present, such budget to the President through the Office of Management and Budget;~~ ^{prepare the budget; and} ^{the National Intelligence}
 - (4) present and justify to the Congress the President's annual budget for national intelligence;
 - (5) ^{carry out the Director's responsibilities under this Act.} ~~conduct program and performance audits and evaluations to determine how effectively funds for national intelligence activities are being expended and how effectively national intelligence programs are being implemented.~~
- (b) The head of each department or agency, ^{that includes an entity} ~~having any~~ ^{of the Intelligence Community} ~~responsibility for carrying out national intelligence activities~~ shall ensure the development and submission to the Director, ^{entity of the IC within} ~~for~~ proposed program and budget for the national intelligence activities to be carried out by any ~~element of such department or agency based upon program and budget guidance from the Director, and shall submit such proposed program and budget, in such form and at such time as the Director shall prescribe,~~
- (1) a
- (2) find necessary to carry out the Director's program + budget responsibilities under this section.

-26-

~~(a) The head of any department or agency having any responsibility for carrying out national intelligence activities may request the President to review decisions of the Director on the annual program or budget for the national intelligence activities of that department or agency submitted to the Director under subsection (a) of this section.~~

(b) The head of each entity of the Intelligence Community shall, in consultation with the Director, and in accordance with section 3679(c) of the Revised Statutes (31 U.S.C. 665(c)), establish the rate at which funds appropriated to such entity for national intelligence activities for any fiscal year are to be obligated in such fiscal year.

~~(c) The head of each entity of the Intelligence Community shall provide to the Director, in a timely and responsive manner, all information requested by the Director for use in performing the Director's program and budget responsibilities under this title.~~

(d) The head of each department or agency ~~having any responsibility for carrying out national intelligence activities~~ *that includes an entity of the I.C.* ~~shall ensure that internal program and budget decisions of such department or agency have no adverse effect on that department or agency's presidentially-approved program or budget relating to the activities of the entity~~ *take such action as may be necessary to* ~~national intelligence activities of the IC within that department or agency.~~

-27-

REQUIREMENTS RELATING TO APPROPRIATIONS FOR
NATIONAL INTELLIGENCE ACTIVITIES

113
Sec. 112. (a) (1) No funds may be appropriated for any fiscal year after September 30, 1978, for the purpose of carrying out any national intelligence activity ^{special activity, counterintelligence activity, counterterrorism activity} unless funds for such activity have been previously authorized ~~for such activity~~ by legislation enacted during the same fiscal year or the fiscal year immediately preceding the fiscal year for which such funds are appropriated, except that the foregoing shall not apply to funds appropriated by any continuing resolution.

(2) ~~Each year in which legislation appropriating funds for national intelligence activities is enacted for any fiscal year, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall, following the enactment of such legislation, recommend to their respective Houses what information should be publicly disclosed regarding the amounts appropriated for such activities by such legislation. Each such committee shall submit its recommendations to the House concerned in such manner as such committee deems appropriate.~~

for each fiscal year,
The President shall make available to the public, in a timely fashion following the appropriation of funds for the national intelligence budget, information regarding the total amount appropriated for the national intelligence budget program for each fiscal year. that

(3) The Director shall have ~~full and exclusive~~ ^{within the} authority for reprogramming funds ~~for~~ national intelligence budget. ^{The Directors} ~~Such~~ authority may only be exercised within the guidelines of the Office of Management and Budget and only after consulting and receiving the approval of the appropriate committees of Congress. ^{The Director shall promulgate guidelines} ~~and the head of the activity of the intelligence~~ Community affected by the reprogramming of such funds. The head of any department or agency having any responsibility for carrying out national intelligence activities may request the President to review any action of the Director which proposes to reprogram any funds appropriated for the purpose of carrying out the national intelligence activities of such department or agency.

specifying the conditions under which proposed reprogramming shall require the prior approval of the Director.

-28-

(b) (1) The Director is authorized to establish a fund to be known as the Contingency Reserve Fund, and to credit to such fund only monies specifically appropriated to the Director for such Fund. The Director is authorized to expend funds from the ~~Contingency Reserve~~ Fund in any fiscal year for the payment of expenses incurred in connection with any national intelligence activity, if--

hereinafter in this section referred to as the "Fund")

special activity, counterintelligence activity, or counterterrorism activity

(A) the expenditure, withdrawal of funds from the Fund

approved by the Office of Management and Budget;

(B) ~~the appropriate committees of Congress~~ have been notified of the facts and circumstances regarding such expenditure at least 72 hours in advance of the initiation of such expenditure; except that in extraordinary circumstances the President may authorize the expenditure of ~~money~~ funds from ~~such~~ the Fund without prior notification to the appropriate committees of the Congress if the President notifies such committees of the Congress within 48 hours after initiation of the expenditure of such funds, describes the activity for which such funds have been or are to be expended, certifies to such committees that prior notification would have resulted in a delay which would have been harmful to the United States, and discloses to such committees the reasons why the delay would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the initiation of any such activity; and

the Committee on Appropriations of the House of Reps, the Committee on Approps. of the Senate, the Permanent SCI of the House of Reps, + the SCI of the Senate

(C) the money from ~~such~~ the Fund is used solely for the purpose of meeting requirements that were not anticipated at the time the President's budget was submitted to the Congress for such fiscal year, the purpose for which such money was used requires protection from unauthorized disclosure, and the activities to be funded are authorized by law.

-29-

~~(1) No money may be expended from the Contingency Reserve Fund for the initiation or major expansion of any activity unless the expenditure is made in compliance with the provisions of paragraph (1); and no financial obligation may be incurred under authority of this subsection unless (A) such obligation has been approved by the Director and Director of the Office of Management and Budget and (B) sufficient money therefor is available in the Contingency Reserve Fund.~~

(2) ~~Money of the Contingency Reserve Fund may be~~ ^{ies from the} expended only for the specific purpose for which ^{the withdrawal} expenditure was approved under this subsection and any amount approved for expenditure but not actually expended for the specific purpose for which approved shall remain in ^{the} ~~such~~ Fund.

(3) ~~Any activity funded from the Contingency Reserve Fund which~~ ^{that} continues after the end of the fiscal year in which such activity was initiated shall be funded thereafter through the regular budgetary process at the earliest practicable time.

(c) The Director may approve the expenditure of funds to cover matters relating to national intelligence activities of an extraordinary or emergency nature. The expenditure of funds for such purposes shall be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount certified therein, but funds expended for such purpose may be expended only for activities authorized by law. The Director shall report quarterly to the ^{Com. on approps. of the House} ~~committees of the Congress having jurisdiction over the national~~ ^{Reps., the Com. on Approps.} intelligence activities of the United States on expenditures made ^{the Senate, the Per. SCI} ~~under the authority of this subsection.~~ ^{the H of Reps., + the SCI} ^{the Senate}

(d) All funds appropriated to the Director, all funds appropriated to entities of the Intelligence Community, and all national intelligence activities, ^{special activities, CI activities, + Terrorism activities,} ~~of the United States,~~ and information and material relating thereto, shall be subject to financial and program management audit and review by the Comptroller General of the United States upon the request, or

-30-

with the approval, of any committee of the Congress having jurisdiction over ^{such} ~~matters relating to national intelligence~~ activities, except that any funds expended for a particular activity, and the activity for which such funds are expended, may be exempted by the Director from such audit and review if the Director (1) determines such exemption to be essential to protect the security of the United States, (2) notifies the appropriate committees of the Congress of such exemption and the reasons for granting it, and (3) reports quarterly to the appropriate committees of the Congress on each activity exempted under this subsection. Any audit or review conducted by the Comptroller General of the United States under authority of this subsection shall be conducted in accordance with such security standards as the Director ~~of National Intelligence~~ and the committee requesting or approving such audit or review shall prescribe. Information resulting from any such audit or review shall be available in the Congress only to the committees of the Congress authorized herein to request such audit or review, except as provided under section 124 of this title.

-31-
COLLECTION SPECIAL

PROCEDURES AND REQUIREMENTS FOR SENSITIVE
INTELLIGENCE PROJECTS AND ACTIVITIES

114
Sec. 114 (a) (1) ~~The President shall establish within the National Security Council a committee to be known as the Operations Coordinating Committee (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, the Attorney General, the Director of National Intelligence, and such other persons as the President may designate.~~

(2) One member of the Committee shall be appointed by the President, by and with the advice and consent of the Senate, to serve as chairman of the Committee. Such confirmation by the Senate shall not be required in the case of any person who, at the time of such person's appointment as chairman of the Committee, is serving in an office for which such person has already received Senate confirmation.

(a) The President shall establish ~~different~~ *involving the clandestine collection of foreign intelligence* categories of ~~clandestine~~ intelligence activities on the basis of the likely impact such activities may have on the national defense and foreign relations of the United States and on the likely impact.

national defense + foreign relations of the U.S.
disclosure of such activities may have on the ~~United States~~.
Among the categories of activities
with respect to clandestine collection ~~projects~~, the President

shall establish a category of "exceptionally sensitive" *activities in which shall be included activities* clandestine collection ~~projects~~ for those ~~projects~~ which ~~if~~ *the President believes would, if* discovered ~~or disclosed~~ *by (to an unauthorized person) clandestine collection* would be likely to cause exceptionally grave damage to the interests of the United States *and* shall

establish a category of "sensitive" clandestine collection *activities in which shall be included clandestine collection activities* ~~projects~~ for those ~~projects~~ which, if discovered or disclosed *by the President believes would,* would be likely to cause serious damage to the interests of the

United States. *The President shall submit, in a timely manner, to the TSCI of the H. of R. and the SCI of the Senate, standards for and procedures relating to each category of lesser sensitivity as the President deems appropriate and the established pursuant to this subsection.*

specifying the level of review and approval required with respect to *each* such category of lesser sensitivity.

-32-

- (b) (1) The ^{NSC}~~Committee~~ shall review each proposed special activity and each proposed clandestine collection ^{activity}~~project~~ designated as "sensitive" or "exceptionally sensitive" in accordance with subsection (a), which is to be carried out by any entity of the Intelligence Community or by any foreign government or any agent of any foreign government for or on behalf of the United States, and shall review any proposed significant change in ^{and any important change in circumstance regarding,} any ongoing special activity or exceptionally sensitive or sensitive clandestine collection project. ^{include} For the purposes of such review the NSC shall be composed of ~~the Sec of State, the Sec of Defense, the AG, the DNI,~~ + such other persons as the President may designate.
- (2) Whenever the ^{NSC}~~Committee~~ reviews any proposal to engage in a new special activity or exceptionally sensitive or sensitive clandestine collection ^{activity}~~project~~ or any proposal to make any significant change in ^{such} an ongoing ~~special activity or exceptionally sensitive or sensitive clandestine collection project~~, the ^{NSC}~~Committee~~ shall have available for consideration a careful and systematic analysis of such proposed activity ~~project~~ or change, a copy of which shall be retained in the records of the National Security Council. Such analysis shall include, but shall not be limited to, the following:
- (A) the ^{proposed} justification for such proposed activity ~~project~~ or change;
 - (B) the nature, scope, probable duration, ^{likely} estimated cost, ~~purpose~~, anticipated risks, consequences of ^{and actions necessary in the case of the termination} disclosure, ~~probability of success, and estimated costs~~ of such activity, ~~project~~ or change;
 - (C) the relationship between the proposed activity ~~project~~ or change and any previously approved related activity ~~project~~; ^{overt or less sensitive alternatives + indications}
 - (D) ^{such} ~~evidence~~ that the objectives of such activity ~~project~~ or change would be unlikely to be achieved by ^{such} overt or less sensitive means; and
 - (E) the legal implications of the proposed activity ~~project~~ or change under the Constitution and laws of the United States and under treaties and

-33-

other international agreements to which the United States is a party.

(3) The ^{NSC}~~Committee~~ shall advise the President with respect to all special activities, clandestine collection ^{activities}~~projects~~ designated as "sensitive" or "exceptionally sensitive" in accordance with subsection (a) above, and any ^{or important changes in circumstances regarding,}~~proposed~~ significant changes in such activities. ^{NSC}~~Any~~ recommendation made by the ^{proposed}~~Committee~~ to the President with respect to any such ^{considered}~~activity, or project,~~ or significant change therein, must have been ^{NSC}~~agreed to~~ by the ^{NSC}~~Committee~~ at a formal meeting of the ^{NSC}~~Committee~~ at which all members of the ^{NSC}~~Committee~~ were present or represented. The written views of any absent member on the proposed activity, ^{NSC}~~project,~~ or change must be presented to the ^{NSC}~~Committee~~ before or after such meeting. ~~Decisions of the Committee may be reviewed by the National Security Council on appeal by any member of the Committee.~~

(4) Each recommendation made by the ^{NSC}~~Committee~~ to the President under subsection (b) (3) above shall be accompanied by an opinion of the Attorney General on the legal implications of the proposed activity, ~~project,~~ or change, as the case may be, and by the analysis prepared for the ^{NSC}~~Committee~~ pursuant to (b) (2) above.

(c) (1) No proposed special activity, ^{activity}~~proposed~~ exceptionally sensitive clandestine collection, ^{thereof}~~project,~~ or ^{proposed}~~significant change, in any ongoing special activity, or~~ ~~exceptionally sensitive clandestine collection project~~ may be initiated unless the ^{NSC}~~Committee~~ has reviewed such ^{proposed}~~activity, project,~~ or change, advised the President thereon, and the President has approved such activity, ~~project,~~ or change.

(2) No proposed special activity may be initiated unless the activity has been approved by the President and the President has made a written finding that ^{in the President's opinion,}~~that~~

(A) such proposed activity is essential to the ^{national defense or the}~~conduct of the foreign policy or the protection of the~~

-34-

~~national security~~ of the United States; ^(B) and the likely benefits of such proposed activity justify the risk of its likely consequences and the likely consequences of its disclosure ^{to an unauthorized person; and}

~~(B) such proposed activity is consistent with publicly enunciated foreign policy goals of the United States, and~~

(C) overt activity would be unlikely to accomplish substantially the intended objective.

(3) No proposed exceptionally sensitive clandestine collection ^{activity} ~~project~~ may be initiated unless such ^{activity} ~~project~~ has been approved by the President and the President has made a written finding that ^{in the President's opinion,}

(A) the information to be obtained by such ^{activity} ~~project~~ is vital to the ^{national defense or the} conduct of the foreign policy ~~or the protection of the national security of the~~ United States; ^(B) and the importance of the information justifies the risk of the likely consequences of discovery ^{by} or disclosure ^{to an unauthorized person} of such ^{activity} ~~project~~; and

~~(B) overt activity or sensitive clandestine collection activity~~ ^{less} would be unlikely to accomplish the objective of such project.

(4) No proposed sensitive clandestine collection ^{activity} ~~project~~ may be initiated until it has been ^{reviewed} ~~approved~~ by the ^{NSC} ~~Committee~~ and the President has been notified of the ^{NSC's} ~~Committee's~~ decision.

(5) The Committee shall maintain a record of all written findings made by the President pursuant to paragraphs (2) and (3).

(d) ^{NSC} ~~The Committee~~ shall conduct a review, at least annually, of all ongoing special ^{activities} ~~activities~~, exceptionally sensitive clandestine collection ^{activities} ~~projects~~, and sensitive clandestine collection ^{activities} ~~projects~~ being carried out by entities of the Intelligence Community or by any foreign government or any agent of any foreign government for or on behalf of the United States for the purpose of determining

-35-

the necessity for continuing such activities ~~and projects~~
and making recommendations to the President regarding such
activities. ~~and projects~~ ^{activity} ~~may be continued following~~ ^{No special activity or exceptionally sensitive collection project}

(2) ~~The Committee shall submit to the National~~
~~Security Council an annual report on the Committee's~~
~~activities.~~

^{activity}
~~may be continued following~~ ^{such annual review + recommendation}
~~by the NSC unless the~~
~~President renews the findings~~
~~required by subsection (c)(2) +~~
~~(c)(3) as the case may be.~~

(1) The Director shall promulgate regulations
establishing procedures by which various types of
intelligence activities shall be submitted to the
appropriate authorities for review and approval consistent
with the categories established by the President under
subsection (a) above. Such regulations shall be consistent
with the provisions of this title and be subject to the
approval of the National Security Council.

(2) No regulation promulgated under paragraph (1),
and no amendment to any such regulation, shall become
effective until the expiration of a period of 60 days after
the date on which such regulation or amendment has been
submitted to the Permanent Select Committee on Intelligence
of the House of Representatives and the Select Committee on
Intelligence of the Senate.

~~(3) The Director shall periodically review the~~
~~effectiveness of the procedures for the review and approval~~
~~of proposed intelligence activities and make such~~
~~recommendations to the President and the National Security~~
~~Council as the Director deems appropriate.~~

(4) The Director shall, prior to initiating any special
activity or exceptionally sensitive or sensitive clandestine
collection, ^{activity} ~~project~~ or any significant change, ^{thereof} ~~in an ongoing~~
~~special activity or exceptionally sensitive or sensitive~~
~~clandestine collection project~~, notify the appropriate committees
of the Congress of the facts and circumstances of the proposed
activity, ~~project~~ or change, and in the case of any proposed
special activity or exceptionally sensitive clandestine
collection, ^{activity} ~~project~~, or any proposed significant change, ^{thereof} ~~in such~~
~~activity or project~~, notify such committees of the Presidential

-36-

findings required to be made by subsections (c) (2) or (c) (3) as the case may be; except that, in extraordinary circumstances, any special activity, exceptionally sensitive or sensitive clandestine collection ^{activity,} ~~project,~~ ^{proposed} or any significant change thereof, may be initiated without such prior notification if the President notifies the appropriate committees of the Congress within 48 hours after the initiation of such activity ~~project~~ or change, certifies to such committees that prior notification would have resulted in a delay which would have been harmful to the United States, and discloses to such committees the reasons why such delay would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the initiation of any such activity ~~project~~ or change. The Director shall ~~specifically~~ ^{of any important change in circumstances} inform the appropriate committees of the Congress ^{of any case in which any} special activity or any exceptionally sensitive or sensitive clandestine collection ^{activity} ~~project~~ involving the collection of intelligence by human sources is being conducted by an entity of the Intelligence Community other than the Central Intelligence Agency. The Director shall ^{provide the NSC with} ~~keep~~ a written record of ~~the time, manner, and content of~~ any such notice and any official reaction or response of such committees to such notice.

^{regarding any special activity or any exceptionally sensitive or sensitive clandestine collection project and activity}

(g) No component of the Federal Government except an entity of the Intelligence Community may conduct any special activity; and no entity of the Intelligence Community except the Central Intelligence Agency and, ^{*} ~~in wartime,~~ the armed forces may conduct any special activity unless (1) the ^{NSC} ~~Committee~~ determines that the objective of such special activity ^{could not} ~~would be less likely~~ to be achieved by the Central Intelligence Agency ~~than by another designated entity of the Intelligence Community,~~ and (2) the President approves the decision of the Committee.

(h) The Director shall submit a written report semiannually to the appropriate committees of the Congress on all special activities and exceptionally sensitive or sensitive clandestine collection ^{activities} ~~projects~~ being carried out by the various entities of the Intelligence Community or by any foreign

^{*} ~~during any period of war declared by the Congress or during any period when members of the armed forces of the U.S. are introduced into hostilities against another country under circumstances which require a reporting by the President to the Congress under the provisions of the War Powers Resolution,~~

-37-

government or agent of any foreign government for or on behalf of the United States.

(j) ^{NSC} The ~~Committee~~ shall conduct a review, at least annually, of all foreign intelligence activities conducted by the Central Intelligence Agency within the United States for the purpose of ensuring that such activities do not violate any right guaranteed or protected by the Constitution or laws of the United States, determining the necessity for continuing such activities, and making recommendations to the President, ~~the National Security Council, and the appropriate committees of the Congress.~~

(k) Nothing in this title shall be construed as amending, superseding, or otherwise modifying in any respect the provisions of section 16 of the Act entitled "An Act to provide certain basic authority for the Department of State", approved August 1, 1956 (22 U.S.C. 2680a), relating to the authority and responsibility of United States Ambassadors to foreign countries.

-49-

+ Counterterrorism

~~COUNTERINTELLIGENCE COMMITTEE, RESTRICTIONS AND REQUIREMENTS REGARDING COUNTERINTELLIGENCE ACTIVITIES~~

Sec. 122. (a) ~~The President shall establish in the National Security Council a committee to be known as the Counterintelligence Committee (hereinafter in this section referred to as the "Committee"). The Committee shall be composed of the Assistant to the President for National Security Affairs, the Secretary of State, the Attorney General, the Secretary of Defense, the Director of the Federal Bureau of Investigation, the Director of National Intelligence, and such other members as the President may designate. The Attorney General shall serve as Chairman of the Committee.~~

(a) It shall be the function of the ^{NSC}~~Committee~~ to advise and assist the President in the formulation of policy with respect to the counterintelligence ^{and counterterrorism} activities of the United States, to ensure unified direction of such activities, and to ensure that the counterintelligence ^{and counterterrorism} activities of the United States serve to protect the national security of the United States and are conducted in conformity with the Constitution and laws of the United States and in a manner that does not violate any right guaranteed or protected by the Constitution or laws of the United States.

For the purposes of this section the NSC shall include ~~the Sec of State, the Sec of Defense, the AG, the DNI, the Dir. of the FBI,~~ and such other members as the President may designate.

(b) It shall also be the function of the ^{NSC}~~Committee~~ to--

(1) establish ~~policy~~ ^{and counterterrorism} objectives, and priorities for the counterintelligence activities of the United States;

(2) ~~establish uniform standards and doctrines for the counterintelligence activities of the United States;~~

(2) supervise the coordination of the ^{and counterterrorism} counterintelligence activities of the ~~Federal Bureau of Investigation through the Attorney General, the counterintelligence activities of the Central Intelligence Agency through the Director, and the counterintelligence activities of the counterintelligence elements of the armed forces through the Secretary of Defense;~~ U.S.;

* with respect to counterintelligence, + counterterrorism,

-50-

(3) adjudicate disagreements among the entities of the Intelligence Community on matters relating to the counterintelligence ^{and counterterrorism} activities of the United States;

~~(5) develop and monitor guidelines, consistent with applicable laws and executive orders, for the maintenance of central records of counterintelligence information;~~

~~(4) review the effectiveness of the procedures by which export licenses are granted and scientific and technical exchange programs are operated and make recommendations to the National Security Council and to the appropriate committees of the Congress, and~~

impact on the counterintelligence + counterterrorism activities of the U.S. of the non-intelligence activities of the U.S. Government, and

⁵ prepare and submit to the President and to the ~~appropriate committees of the Congress~~ ^{PSCI of the H. of R. + the SCI of the Senate} an annual assessment of the threat to which the United States and its interests may be subject as a consequence of the activities of intelligence and security services of foreign powers and international terrorist groups and an annual assessment of the effectiveness of the United States' counterintelligence and counterterrorism activities against this threat. ~~The Attorney General shall submit a written report annually to the appropriate committees of the Congress on the matters contained in clauses (1) through (6) of this subsection.~~

(c) It shall also be the function of the ^{NSC} ~~Committee~~ to (1) review proposals for the initiation, significant change, or termination of any counterintelligence ^{or counterterrorism} activity of the United States which would be likely to cause, or the discovery ^{by,} or disclosure ^{to an unauthorized person} of which would be likely to cause, serious damage to the interests of the United States, and (2) make recommendations to the President with respect to any ~~such~~ proposal for the initiation, significant change, or termination of any counterintelligence ^{or counterterrorism} activity which would be likely to cause, or the discovery ^{by,} or disclosure ^{to an unauthorized person,} of which would be likely to cause, exceptionally grave damage to the interests of the United States. Any such recommendation to the President must have been agreed to by the ^{NSC} ~~Committee~~ at a formal meeting of the ^{NSC} ~~Committee~~ at which all members of the ^{NSC} ~~Committee~~ are present or represented. Any

-51-

such recommendation to the President shall be accompanied by an opinion of the Attorney General on the legal implications of such activity. The written views of any member absent from the

~~NSC~~
~~Committee~~ must be presented to the Committee before or after such meeting. ~~Decisions of the Committee may be reviewed by the~~

~~National Security Council on appeal from any member of the Committee.~~ No proposal for the initiation, significant change,

or termination of any counterintelligence, ^{or counterterrorism} activity which would be likely to cause or the discovery ^{by,} or disclosure of which ^{to an unauthorized person,} would be

likely to cause exceptionally grave damage to the United States may be implemented unless the ~~NSC~~
~~Committee~~ has considered such activity, advised the President thereon, and the President has approved the activity in writing.

(d) The ~~NSC~~
~~Committee~~ shall conduct a review, at least annually, of all ongoing counterintelligence ^{+ counterterrorism} activities of the United States which would be likely to cause or the discovery ^{by,} or disclosure of which ^{to an unauthorized person,} would be likely to cause serious or exceptionally grave damage to the United States for the purpose of determining the necessity for continuing such activities ^{and *}

(f) ~~The Committee shall submit to the National Security Council an annual report on the Committee's activities.~~

(e) The Attorney General shall notify the ~~appropriate~~ ^{PSCI of the H. of R. + the SCI of the Senate} committees of the Congress of the facts and circumstances

regarding any counterintelligence ^{or counterterrorism} activity described in subsection (d) prior to ^{the initiation of} initiating such activity, except that in extraordinary circumstances ^{such} such activity may be initiated without prior notification to ~~the appropriate committees of the Congress~~ if the President notifies such committees within 48 hours after the initiation of the activity, certifies to such committees that prior notification would have resulted in a delay which would have been harmful to the United States and discloses to such committees the reasons why such delay would have been harmful. The foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the initiation of any such activity.

* making recommendations to the President regarding such activities. No counterintelligence or counterterrorism activity which would be likely to cause or the discovery by or disclosure of which to an unauthorized person would be likely to cause exceptionally grave damage to the U.S. may be continued following such review + recommendation by the NSC unless the President renews the approval required by subsection (c) of this section.

-52-

f) The Attorney General shall submit a written report
semiannually to the ~~appropriate committees of the Congress~~ **PSCI of the H. of R. + the SCI of the Senate** on
~~those counterintelligence activities of the United States~~ **or counterterrorism**
described in subsection (c) which have been approved during the
previous six-month period.

g) The Attorney General shall transmit annually to the ~~appropriate committees of the Congress~~ **PSCI of the H. of R. + the SCI of the Senate** a written ~~certification~~ **report in which the**
~~AG shall identify + describe any activity~~ **that to the best of his knowledge the counterintelligence or counterterrorism**
~~that to the best of his knowledge the counterintelligence or counterterrorism~~ **that has violated**
activities of the United States ~~have been conducted so as not to~~
~~violate~~ any right guaranteed or protected by the Constitution or,
laws of the United States ~~except for those activities he has~~ **and shall certify that to the best of his knowledge the other**
~~reason to believe were not so conducted and describes and~~ **counterintelligence and**
~~identifies such activities for such committees.~~ **counterterrorism activities**
of the U.S. have been
conducted so as not to
violate any such rights.

-53-

COMMUNICATIONS SECURITY ~~COMMITTEE~~

Sec. 123 ~~(a) The President shall establish within the~~
National Security Council a committee to be known as the
Communications Security Committee (hereinafter in this section
referred to as the "Committee"). The Committee shall be composed
of the following members:

- (1) one member from the Department of State
designated by the Secretary of State.
- (2) one member from the Department of the Treasury
designated by the Secretary of the Treasury.
- (3) one member from the Department of Defense
designated by the Secretary of Defense.
- (4) one member from the Department of Transportation
designated by the Secretary of Transportation.
- (5) one member from the Department of Commerce
designated by the Secretary of Commerce.
- (6) one member from the Department of Energy
designated by the Secretary of Energy.
- (7) one member from the Central Intelligence Agency
designated by the Director of National Intelligence.
- (8) one member from the National Security Agency
designated by the Secretary of Defense.
- (9) one member from the Department of Justice
designated by the Attorney General.

~~(10)~~ one member from the Federal Bureau of
Investigation designated by the Attorney General, and
~~(11)~~ such other members as the President may
designate.

~~(b) The President shall designate one member of the
Committee to serve as chairman.~~

(a) It shall be the function of the ^{NSC}~~Committee~~ to advise
and ~~assist~~ the President in the formulation of
policy with respect to communications security.

→ * (1) establish objectives for the communications
security activities of the United States Government;

* (b) It shall also be the function of the NSC with
respect to communications security to --

For the purposes of this section, the
NSC shall include the Sec. of
the Treasury, the AG, the
Sec. of Commerce, the
Sec. of Transportation, the
Sec. of Energy, the DNI,
one member of the NSA
designated by the Sec. of
Defense, A

-54-

(2) ~~develop and prescribe strict and uniform communications security standards for all departments and agencies;~~

(3) provide communications security guidance ~~and assistance~~ to the Secretary of Defense in the Secretary's capacity as the executive agent of the United States Government for communications security;

(4) develop communications security policies governing the relationship between departments and agencies and foreign governments and between departments and agencies and international organizations, including policies governing the circumstances and terms and conditions under which departments and agencies may furnish to such foreign governments and organizations information and materials relating to communications security; and

(5) develop policies governing the circumstances and terms and conditions under which departments and agencies may furnish to United States persons information and materials regarding the vulnerability of non-governmental United States communications to unauthorized interception and exploitation and regarding appropriate means of securing such communications from unauthorized interception and exploitation.

~~(7) approve and promulgate definitions of terms relating to communications security which shall be used by all departments and agencies; and~~

~~(8) review proposals, in consultation with the Attorney General, for activities to determine the vulnerability to unauthorized interception and exploitation of the communications of the Government and of United States persons and organizations, and make such recommendations as the Committee deems appropriate.~~

^{NSC}
(c) The ~~Committee~~ shall review, at least once every two years, the effectiveness of the communications security procedures of each department and agency, and the vulnerability to interception of the communications of the Government and of

-55-

United States persons and organizations, ~~and make such~~
~~recommendations as the Committee deems appropriate.~~

(d) The ^{NSC} ~~Committee~~ shall report ^{annually} ~~periodically, but not less~~
~~often than once every six months, to the National Security~~
^{PSCT of the H. of R. + the SCT of the Senate}
~~Council and to the appropriate committees of the Congress~~
regarding the ~~work performed by the Committee under this section~~
^{Communications security activities of the U.S.}

106.

Sec. ~~105a~~. (a) The President shall determine annually which intelligence activities, if any, in addition to those specifically defined as national intelligence activities ~~under by~~ this title, shall constitute national intelligence activities ^{for the purpose} ~~of this Act~~. The President shall report annually to the appropriate committees of the Congress on this determination.

(b) The Director shall, on an annual basis, ^{submit} ~~make recom-~~ ~~mendations~~ to the President, the National Security Council, and the appropriate committees of the Congress, ^{a report describing} ~~regarding~~ the relationships among ~~the~~ national intelligence activities and other intelligence and intelligence-related activities and ~~shall include in~~ ^{*} whether any intelligence or intelligence-related activity not specifically defined as a national intelligence activity ~~under by~~ this title should be determined by the President, pursuant to subsection (a) of this section, to be a national intelligence activity.

* such report the Director's recommendations with respect to whether any changes should be made in those relationships and